

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Patrick Yu	Team: APU	CCRB Case #: 201800215	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 01/03/2018 7:36 PM	Location of Incident: § 87(2)(b)	Precinct: 107	18 Mo. SOL 7/3/2019	EO SOL 7/3/2019	
Date/Time CV Reported Tue, 01/09/2018 2:34 PM	CV Reported At: Precinct	How CV Reported: Phone	Date/Time Received at CCRB Tue, 01/09/2018 2:34 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Thomas Enders	30482	954771	107 PCT
2. POM Joseph Desimone	15309	956586	107 PCT
3. SGT Guillermo Suarez	120	937591	107 PCT
4. POF Tina Trotta	11793	955598	107 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Alyssia Fogarty	13305	960547	107 PCT
2. POM William Madorran	09377	960845	107 PCT
3. POM Kevin Donohue	07469	953824	107 PCT
4. POM Michael Mulieri	06576	958963	107 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Thomas Enders	Force: Police Officer Thomas Enders used physical force against § 87(2)(b)	
B.POM Joseph Desimone	Force: Police Officer Joseph Desimone used physical force against § 87(2)(b)	
C.POM Thomas Enders	Force: Police Officer Thomas Enders used physical force against § 87(2)(b)	
D.POM Joseph Desimone	Force: Police Officer Joseph Desimone used physical force against § 87(2)(b)	
E.POM Thomas Enders	Force: Police Officer Thomas Enders hit § 87(2)(b) against the ground.	
F.POM Thomas Enders	Force: Police Officer Thomas Enders hit § 87(2)(b) against a stretcher.	

Officer(s)	Allegation	Investigator Recommendation
G.POM Joseph Desimone	Force: Police Officer Joseph Desimone hit § 87(2)(b) against a stretcher.	
H.SGT Guillermo Suarez	Force: Sergeant Guillermo Suarez hit § 87(2)(b) against a stretcher.	
I.POF Tina Trotta	Force: Police Officer Tina Trotta hit § 87(2)(b) against a stretcher.	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On January 9, 2018, § 87(2)(b) a staff member of § 87(2)(b), filed this complaint on behalf of § 87(2)(b) § 87(2)(b). § 87(2)(b) did not witness this incident. This case originally assigned to former Inv. Matthew Campos and was reassigned to Inv. Patrick Yu on February 21, 2018.

On January 3, 2018, at approximately 7:36 p.m., PO Thomas Enders and PO Joseph Desimone of the 107th Precinct responded to § 87(2)(b) § 87(2)(b), in Queens. Inside the location, PO Enders and PO Desimone took § 87(2)(b) down to the ground (**Allegation A: Force, § 87(2)(g); Allegation B: Force, § 87(2)(g)**). While § 87(2)(b) was on the ground, PO Enders allegedly punched § 87(2)(b) (**Allegation C: Force, § 87(2)(g)**). It was alleged that PO Desimone also punched § 87(2)(b) (**Allegation D: Force, § 87(2)(g)**). During the incident, PO Enders allegedly shoved § 87(2)(b)'s face against the floor (**Allegation E: Force, § 87(2)(g)**). Upon the EMT's arrival, PO Enders, PO Desimone, Sgt. Guillermo Suarez, and PO Tina Trotta allegedly slammed § 87(2)(b) onto the stretcher (**Allegation F: Force, § 87(2)(g); Allegation G: Force, § 87(2)(g); Allegation H: Force, § 87(2)(g); Allegation I: Force, § 87(2)(g)**). § 87(2)(b) was removed to § 87(2)(b).

§ 87(4-b), § 87(2)(g)

There is no video evidence depicting this incident.

Findings and Recommendations

Allegation (A) Force: Police Officer Thomas Enders used physical force against § 87(2)(b)

Allegation (B) Force: Police Officer Joseph Desimone used physical force against § 87(2)(b)

It is undisputed that PO Enders and PO Desimone took § 87(2)(b) down to the ground. § 87(2)(b) and § 87(2)(b) § 87(2)(b), witnessed the incident. A statement was not obtained from § 87(2)(b) because § 87(2)(b) noted that § 87(2)(b) is unable to express himself verbally (Board Review 01).

§ 87(2)(b) and § 87(2)(b) stated that they were familiar with § 87(2)(b) § 87(2)(b) (Board Review 01-03). In her CCRB testimony, § 87(2)(b) stated that prior to calling the officers, she was informed by staff that they had physically restrained § 87(2)(b) (Board Review 01). § 87(2)(b) was also informed by staff that § 87(2)(b) was involved in a verbal altercation with a patient and that he hit a staff member. When § 87(2)(b) and other staff members attempted to speak with § 87(2)(b) he cursed at them and he stated that he was going to kill everybody. After approximately 30 minutes of the staff's unsuccessful attempts to calm § 87(2)(b) down, § 87(2)(b) called 911 to have § 87(2)(b) removed to the hospital for an emergency psychiatric evaluation. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) stated the police were called because § 87(2)(b) hit him and § 87(2)(b) (Board Review 02).

§ 87(2)(b) stated that PO Enders entered the location and spoke with § 87(2)(b) in an attempt to find out what was happening (Board Review 01). § 87(2)(b) approached within approximately 2-3 feet of PO Enders and § 87(2)(b) cursed at PO Enders. § 87(2)(b) described § 87(2)(b)'s next action as an attempt to bear-hug PO Enders by raising his arms outwards to the sides with his palms open. § 87(2)(b) did not see if § 87(2)(b) successfully bear-hugged PO Enders because she was distracted by § 87(2)(b) but when she was refocused on PO Enders and § 87(2)(b) § 87(2)(b) saw § 87(2)(b) attempting to punch PO Enders. However, § 87(2)(b) did not see if § 87(2)(b) made contact with PO Enders' face. In response to § 87(2)(b)'s attempt to punch PO Enders, PO Enders grabbed § 87(2)(b) around his shoulders and PO Desimone grabbed § 87(2)(b)'s calves to bring § 87(2)(b) to the ground. § 87(2)(b) did not see how PO Enders and PO Desimone restrained § 87(2)(b) on the ground, but she saw that § 87(2)(b) was unable to move his arms. Similar to § 87(2)(b)'s statement, § 87(2)(b) and § 87(2)(b) stated that § 87(2)(b) swung at PO Enders (Board Review 02-04). Among all of the civilians' statements, only § 87(2)(b) saw § 87(2)(b) successfully punch PO Enders in the face or neck area (Board Review 02). All of the civilians' statements were consistent in regards to PO Enders grabbing § 87(2)(b) and bringing him down to the floor.

An incident report prepared by § 87(2)(b) who did not witness the incident, indicated that § 87(2)(b) had engaged in a verbal and physical altercation with another individual at the facility and also swung his fist at staff members (Board Review 09). The report also noted that § 87(2)(b) did not have any bruises or injuries prior to the officers' arrival. Additionally, it was noted that § 87(2)(b) punched an officer identified via the investigation as PO Enders in the face and that PO Enders subsequently grabbed and "slammed" § 87(2)(b) to the floor. § 87(2)(b) prepared the report with the information he received from staff members who witnessed the incident. In one of the § 87(2)(b) reports, § 87(2)(b) reported that he did not witness the incident, but he was informed by § 87(2)(b) that police hit § 87(2)(b) § 87(2)(g)

§ 87(2)(b) In her § 87(2)(b) report, § 87(2)(b) did not provide a statement in regards to what occurred prior to § 87(2)(b) being on the floor.

FDNY EMT § 87(2)(b) and EMT § 87(2)(b) responded to the location. In her testimony, § 87(2)(b) stated that when they arrived, § 87(2)(b) was already being restrained on the floor by police officers (Board Review 26). § 87(2)(b) was informed by the staff that officers had tackled § 87(2)(b) to the floor, but she did not witness this.

PO Enders, PO Desimone, Sgt. Suarez, and PO Trotta were familiar with § 87(2)(b) and stated that officers are constantly responding to the location (Board Review 05-08). PO Enders added that he was aware that in the past, § 87(2)(b) had once been reported as a missing emotionally disturbed person (EDP) and § 87(2)(b) fought and spat at the responding officers (Board Review 05). None of the other officers interviewed had any prior interactions with § 87(2)(b)

The officers responded to a radio run regarding a homicidal, suicidal, and violent EDP at the location. PO Enders did not immediately recognize § 87(2)(b) but he saw that § 87(2)(b) looked distraught because he was pacing back and forth and looked angry (Board Review 05). Upon PO Enders entering the location, § 87(2)(b) walked towards him with his hands in the pockets of his hooded sweatshirt. PO Enders instructed § 87(2)(b) to take his hands out of his pockets. Once § 87(2)(b) removed his hands from his pockets, § 87(2)(b) pushed PO Enders. PO Enders stated that § 87(2)(b) did not do anything else physically. In response, PO Enders and PO Desimone tackled § 87(2)(b) in order to handcuff him and contain him to ensure that he could not harm himself or the officers. PO Enders believed that that he grabbed § 87(2)(b) around his mid-section and waist area when he tackled him. PO Enders stated that he scraped the back of his left hand when he took § 87(2)(b) down to the floor. PO Enders denied receiving any medical treatment for his injury and stated that he just poured water over it.

§ 87(2)(g)

PO Desimone did not recall if he assisted with taking § 87(2)(b) to the ground.

Sgt. Suarez and PO Trotta provided consistent accounts during their CCRB interview (Board Review 07 and 08). When Sgt. Suarez and PO Trotta arrived at the location they were initially unable to enter because the door was locked, but they saw § 87(2)(b) run towards PO Enders and PO Desimone. Sgt. Suarez stated that § 87(2)(b) tackled PO Enders and PO Desimone and he saw that § 87(2)(b) ended up chest-to-chest with one of the officers (Board Review 07). Sgt. Suarez stated that either PO Enders or PO Desimone grabbed § 87(2)(b) by wrapping his arm around § 87(2)(b)'s upper body. Once Sgt. Suarez entered the location, he saw either PO Enders or PO Desimone place § 87(2)(b) down to the floor by leaning his body forward while holding onto § 87(2)(b). PO Trotta stated that either PO Enders or PO Desimone or both officers took § 87(2)(b) down to the floor, but she could not describe this action (Board Review 08).

The EVENT generated for this incident, EVENT #§ 87(2)(b) indicated that the 911 caller stated that there was a violent male at the location who was violent, suicidal, and homicidal (Board Review 10).

The AIDED Report generated for § 87(2)(b) noted that he was taken to the hospital for further evaluation due to his mental health and because § 87(2)(b) had homicidal and suicidal thoughts (Board Review 14). The report also indicated that § 87(2)(b) attempted to harm himself and others, placed himself in danger, and verbally and physically threatened others.

The TRI report prepared by PO Enders and PO Desimone contained the same information noting that § 87(2)(b) wrestled/grappled and pushed/shoved officers (Board Review 13 and 15). The TRI reports also noted that officers used a forcible takedown.

§ 87(2)(b)'s medical records obtained from § 87(2)(b) indicated that § 87(2)(b) told the medical personnel that officers' slammed him (Privileged). § 87(2)(b) did not make any additional statements regarding his interaction with the officers. According to the medical records, § 87(2)(b) had facial abrasions and swelling.

NYPD Patrol Guide Procedure 221-13 defines an emotionally disturbed person as an individual who appears to mentally ill or temporarily deranged and is conducting him or herself in a manner that an officer reasonably believes is likely to result in serious injury to himself or others (Board Review 12). If an emotionally disturbed person's actions constitute immediate threat of serious physical injury or death to himself or others an officer should take reasonable measures to terminate or prevent such behavior.

NYPD Patrol Guide Procedure 221-01 states that force may be used when it is reasonable to ensure the safety of a member of the service or otherwise protect life, or when it is reasonable to place person in custody or prevent escape from custody (Board Review 11). In situations in which it is not safe or appropriate to use de-escalation techniques to gain voluntary compliance from a subject, officers should use only a reasonably necessary amount of force to gain control or custody of the subject.

§ 87(2)(g)
[REDACTED]

Allegation (C) Force: Police Officer Thomas Enders used physical force against § 87(2)(b)

[REDACTED]
In her CCRB interview, § 87(2)(b) stated PO Enders punched the back of § 87(2)(b)'s head three to four times immediately after PO Enders brought him down to the floor (Board Review 01). At this point, PO Desimone was restraining § 87(2)(b)'s lower body and PO Enders was restraining his upper body. § 87(2)(b) could not clearly see how they restrained him, but she saw that § 87(2)(b) could not move his arms. § 87(2)(b) stated that § 87(2)(b) was wiggling his body and cursing. § 87(2)(b) stated that PO Enders punched § 87(2)(b) three to four times at another point during the incident, possibly after § 87(2)(b) was handcuffed. § 87(2)(b) observed § 87(2)(b) bleeding from his mouth while he was on the floor.

§ 87(2)(b) and § 87(2)(b)'s CCRB testimony were consistent with § 87(2)(b)'s account in regards to PO Enders punching § 87(2)(b) immediately after § 87(2)(b) was on the floor (Board Review 02-04). Additionally, § 87(2)(b), § 87(2)(b), and § 87(2)(b) all stated that the ambulance arrived towards the end of the incident as § 87(2)(b) was already on the ground. § 87(2)(b) did not recall when the ambulance arrived and he did not know if the EMTs witnessed the officers punch § 87(2)(b).

§ 87(2)(g)
[REDACTED]

In his CCRB testimony, § 87(2)(b) stated that § 87(2)(b) was unable to move his arms on the floor as PO Enders punched him seven to eight times in succession (Board Review 02). § 87(2)(b) stated that while § 87(2)(b) was on the ground, he was struggling, cursing at the officers, and threatening to kill the officers.

In his CCRB testimony, § 87(2)(b) stated that several officers assisted with controlling § 87(2)(b) as PO Enders punched § 87(2)(b)'s head, neck, and face 20-25 times (Board Review 03). § 87(2)(b) stated that § 87(2)(b) was immobilized because of the officers who were on top of him. § 87(2)(b) testified that § 87(2)(b) lifted his head multiple times while he was on the floor. In the report he provided to § 87(2)(b), § 87(2)(b) stated that an officer punched § 87(2)(b) incessantly (Board Review 09).

§ 87(2)(b) and § 87(2)(b) both observed § 87(2)(b) bleeding during the incident (Board Review 02 and 03). However, neither § 87(2)(b) nor § 87(2)(b) specified if they observed injuries prior to the arrival of the officers.

In his CCRB testimony, § 87(2)(b) stated that § 87(2)(b) was not fighting or resisting when PO Enders initially punched his head while he was on the floor, (Board Review 04). § 87(2)(b) stated that after § 87(2)(b) was in handcuffs on the floor, PO Enders struck § 87(2)(b) again. § 87(2)(b) did not further describe this strike or describe how many times PO Enders initially punched § 87(2)(b).

In the incident report prepared by § 87(2)(b) it was noted that officers punched § 87(2)(b) in the face and head repeatedly and § 87(2)(b) was bleeding and bruised (Board Review 09). A separate report attached with the incident report from § 87(2)(b) detailed the injuries § 87(2)(b) sustained. The report, prepared by a nurse from § 87(2)(b) on January 5, 2018, indicated that when § 87(2)(b) returned from § 87(2)(b) he had marks and bruises to his face. The report also documented that § 87(2)(b)'s eyes were bruised and that he had multiple small red bruises to his left cheek, a 3-inch long bruise with scrapes on his right cheek, scrapes and bruises on his chin, and moderately swelling to his lip. Another attachment to the § 87(2)(b) incident report entitled "Medical Progress Note," indicated that § 87(2)(b) notified § 87(2)(b) that § 87(2)(b) had significant swelling to his hands and face. The reporter of the "Medical Progress Note" documented that § 87(2)(b) did not have any injuries after § 87(2)(b) staff had restrained him and that the injuries were occurred while in police custody. § 87(2)(b) also provided three photos depicting redness, swelling, and bruises to § 87(2)(b)'s face which were taken on January 5, 2018 (Board Review 09). In one of the statements provided to § 87(2)(b), § 87(2)(b) stated that she saw three officers on top of § 87(2)(b) and one of the officers punched § 87(2)(b)'s face multiple times.

EMT § 87(2)(b) stated that upon her arrival, the officers were in the process of restraining § 87(2)(b) on the ground by holding his legs, arms, and waist (Board Review 26). EMT § 87(2)(b) denied seeing any officers punch § 87(2)(b). EMT § 87(2)(b) stated that while he was on the ground, § 87(2)(b) was tussling by moving every part of his body. § 87(2)(b) was swinging his arms, kicking his feet, spitting, and biting. EMT § 87(2)(b) did not see § 87(2)(b)'s spit land on anyone and she did not believe that he was aiming his spit at anyone. Moreover, EMT § 87(2)(b) did not see § 87(2)(b) strike any officers as he was tussling and she did not see § 87(2)(b) successfully bite any officers, but one of the officers stated he was bit on his hand. EMT

§ 87(2)(b) stated that § 87(2)(b) sustained scrapes on the back of his hand and was bleeding from his mouth, but she did not know what caused his injuries. She denied seeing any additional injuries on § 87(2)(b).

In his CCRB testimony, PO Enders stated that he laid on top of § 87(2)(b)'s upper body once he took § 87(2)(b) down to the floor (Board Review 05). PO Enders attempted to place handcuffs on § 87(2)(b) he did not know which other officers assisted him in doing so. PO Enders stated that § 87(2)(b) flailed his arms and prevented the officers from placing his hands behind his back. PO Enders did not recall if § 87(2)(b) attempted to strike an officer during the struggle. PO Enders did not recall where his hands made contact with § 87(2)(b) but he stated that he grappled and wrestled § 87(2)(b) in an attempt to grab § 87(2)(b)'s arms. PO Enders stated that he did not recall doing anything else to overcome § 87(2)(b)'s struggling. PO Enders did not recall if he or any officers struck § 87(2)(b). PO Enders stated that if he had struck § 87(2)(b) it would have been because § 87(2)(b) was fighting with the officers and was not in handcuffs at the time. PO Enders stated that eventually they were able to handcuff § 87(2)(b) and that it required four officers and two pairs of handcuffs linked together to handcuff § 87(2)(b) because they were unable to get his hands close enough to use one set of handcuffs. PO Enders denied striking § 87(2)(b) after he was placed in handcuffs.

PO Desimone testified that § 87(2)(b) flailed and attempted to get up from the floor (Board Review 06). PO Desimone stated that he was unsure how to describe flailing, but he noted that § 87(2)(b) prevented the officers from grabbing his arms and tensing his entire body. PO Desimone attempted to control § 87(2)(b)'s right arm in order to place him in handcuffs. PO Desimone did not recall doing anything else to overcome § 87(2)(b)'s resistance. PO Desimone did not know if PO Enders did anything other than grappling with § 87(2)(b) in order to overcome § 87(2)(b)'s resistance. Additionally, PO Desimone did not recall if PO Enders utilized any fist strikes against § 87(2)(b) but he noted that he was not primarily focused on PO Enders. PO Desimone did not recall if any officers struck § 87(2)(b).

Sgt. Suarez and PO Trotta both stated that they entered the location after § 87(2)(b) was placed on the floor (Board Review 07 and 08). In his CCRB statement, Sgt. Suarez stated that he recalled PO Enders holding § 87(2)(b)'s upper body while he was on the ground and PO Desimone placing him in handcuffs (Board Review 07). Sgt. Suarez stated that § 87(2)(b) kicked, moved his arms in every direction, refused to be handcuffed, cursed, and attempted to spit while he was on the floor. Sgt. Suarez did not recall seeing § 87(2)(b) kick any officers and he denied being kicked by § 87(2)(b). Sgt. Suarez stated that PO Desimone was eventually able to handcuff § 87(2)(b) but he did not know how PO Desimone overcame § 87(2)(b)'s resistance. Sgt. Suarez also assisted with handcuffing § 87(2)(b) and he was eventually able to grab § 87(2)(b)'s left arm to place a handcuff on his left wrist. Sgt. Suarez and PO Desimone subsequently combined both of the handcuffs. Sgt. Suarez stated that § 87(2)(b) was still moving his arms, legs, neck, face, and attempted to spit as they were combining the two handcuffs. Sgt. Suarez denied seeing PO Enders or any officers punch § 87(2)(b). Sgt. Suarez denied seeing any injuries on § 87(2)(b).

In her CCRB testimony, PO Trotta stated that § 87(2)(b) was pulling his arm away, kicking, and “wiggling” while he was on the floor (Board Review 08). PO Trotta denied seeing the officers do

anything else besides grab § 87(2)(b)'s arms in order to place him in handcuffs. PO Trotta denied seeing PO Enders punch § 87(2)(b). PO Trotta stated that there were no hand strikes used against § 87(2)(b) and she denied seeing any officers make physical contact with § 87(2)(b)'s face. PO Trotta stated that while § 87(2)(b) was inside the ambulance, § 87(2)(b) repeatedly banged the right side of his face against the wall of the ambulance. However, PO Trotta denied seeing any injuries on § 87(2)(b).

During their CCRB interviews, Sgt. Suarez and PO Trotta were shown the photos provided by § 87(2)(b) which were attached to the incident report. The photos depicted redness, bruising, and swelling to various areas of § 87(2)(b)'s face (Board Review 09). Sgt. Suarez and PO Trotta both denied seeing any injuries during the incident consistent to the injuries depicted in the photos.

The TRI reports prepared by PO Enders and PO Desimone did not document any hand strikes used against § 87(2)(b) and only references the forcible takedown that brought § 87(2)(b) to the floor (Board Review 13 and 15). § 87(2)(b)'s documented use of force in the TRI reports are mentioned in Allegations A and B.

According to § 87(2)(b)'s medical records from § 87(2)(b) EMS reported that the § 87(2)(b) staff stated that § 87(2)(b) was agitated and that § 87(2)(b) stated that he was going to kill people with his knife and kill himself (Privileged). The medical personnel noted that the physical exam showed signs of abrasions and swelling to § 87(2)(b)'s face. EMS reported that the injuries occurred while NYPD officers restrained § 87(2)(b). EMS also indicated that NYPD officers held § 87(2)(b) face down on the floor. EMS also noted that § 87(2)(b) was transported without incident in stable condition. The medical records included information provided by § 87(2)(b) who stated that § 87(2)(b) attempted to hit police officers. § 87(2)(b) also stated that officers restrained § 87(2)(b) and the officers hit him in the head. § 87(2)(b) reported that prior to officers restraining § 87(2)(b) he did not have injuries to his head or face.

NYPD Patrol Guide Procedure 221-13 defines an emotionally disturbed person and noted that an EDP should be restrained with handcuffs if they resist being taken into custody (Board Review 12).

NYPD Patrol Guide Procedure 221-01 states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody (Board Review 11). Officers will use only a reasonable amount of force to gain control or custody of the subject.

§ 87(2)(g)
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§ 87(2)(g)

It is undisputed that § 87(2)(b) was agitated during the incident, made verbal threats, and that he had shoved or performed a similar action towards PO Enders. § 87(2)(g)

According to three of the civilians' accounts, § 87(2)(b) was restrained when PO Enders punched him. § 87(2)(b) did not say whether or not § 87(2)(b) was restrained, but § 87(2)(b) stated that § 87(2)(b) was not fighting or resisting when PO Enders punched him. All of the officers stated that § 87(2)(b) was not immediately restrained when he was on the floor.

§ 87(2)(g)

Furthermore, it is undisputed that § 87(2)(b) did not strike any officers or attempt to strike any officers while he was on the floor.

§ 87(2)(g)

Allegation (D) Force: Police Officer Joseph Desimone used physical force against § 87(2)(b)

§ 87(2)(b) testified that PO Desimone struck § 87(2)(b) as he was pulling one of his arms behind his back and at another point after he was handcuffed (Board Review 04). § 87(2)(b) did not provide any details in regards to how or where PO Desimone struck § 87(2)(b)

None of the other witnesses alleged that any officer aside from PO Enders punched § 87(2)(b) (Board Review 01- 03). As noted above, EMT § 87(2)(b) denied seeing any officers punch § 87(2)(b) (Board Review 26).

The officers' testimonies in regards to the events that occurred after § 87(2)(b) was taken down to the floor are detailed in the discussion of Allegation C. In his CCRB statement, PO Desimone did not recall utilizing any fist strikes on § 87(2)(b) (Board Review 06). PO Trotta, PO Enders, and Sgt. Suarez all denied seeing PO Desimone punch or strike § 87(2)(b) (Board Review 05, 07, and 08).

§ 87(2)(g)

Allegation (E) Force: Police Officer Thomas Enders hit § 87(2)(b) against the ground.

In his CCRB testimony, § 87(2)(b) stated that PO Enders smashed § 87(2)(b)'s face to the floor after punching § 87(2)(b) (Board Review 02). When EMS arrived, § 87(2)(b) saw a mask over § 87(2)(b)'s face and he assumed that § 87(2)(b) wanted to spit, but he did not see him spit during the incident.

In his CCRB statement, § 87(2)(b) stated that § 87(2)(b) lifted his head up multiple times while he was on the floor (Board Review 03). § 87(2)(b) saw PO Enders place his knee against § 87(2)(b)'s neck and back and “mush” § 87(2)(b)'s head to the floor. § 87(2)(b) was not asked to clarify what he meant this term.

In her CCRB statement, § 87(2)(b) stated that at some point while § 87(2)(b) was on the floor, PO Enders placed his knee between § 87(2)(b)'s shoulders at the base of his neck and kneeled on § 87(2)(b)'s back (Board Review 01). § 87(2)(b) stated that Sgt. Suarez told her that § 87(2)(b) was spitting. § 87(2)(b) and § 87(2)(b) did not provide any details in regards to PO Enders making physical contact with § 87(2)(b)'s face aside from when PO Enders punched him (Board Review 01 and 04).

In her CCRB testimony, EMT § 87(2)(b) stated that § 87(2)(b) was repeatedly spitting and actively trying to bite while he was on the floor (Board Review 26). EMT § 87(2)(b) did not see § 87(2)(b)'s spit land on anyone and she did not see him successfully bite anyone, but she was informed that an officer stated that he had been bitten. In response to § 87(2)(b) biting and spitting, the officers held § 87(2)(b) tightly to restrict his movements. EMT § 87(2)(b) denied seeing officers hitting § 87(2)(b)'s head against the ground or making any contact with § 87(2)(b)'s head. Nothing was ever placed over § 87(2)(b)'s mouth during the incident.

PO Enders testified that he and other unidentified officers held § 87(2)(b) to the floor to prevent him from successfully getting up, but he stated that he did not recall how he applied pressure in doing so (Board Review 05). Additionally, PO Enders stated that at some point, § 87(2)(b) attempted to spit by making a guttural throat sound as if he was going to spit, but § 87(2)(b) did not successfully spit at the officers. PO Enders stated that he placed his knee on the back of § 87(2)(b)'s head and neck area in order to keep him from turning and spitting on the officers. Additionally, PO Enders also grabbed the hood of his sweatshirt and placed it in front of his mouth to prevent him from spitting. EMS eventually placed a mask on § 87(2)(b) to prevent him from spitting.

In his CCRB testimony, PO Desimone stated that he did not recall how PO Enders held § 87(2)(b) down while he was handcuffed (Board Review 06). PO Desimone stated that § 87(2)(b) attempted to spit at the officers and he stated that either PO Enders or another officer attempted to hold § 87(2)(b)'s face down or to the side in order to prevent him from spitting until EMS could cover his mouth with a mask. PO Desimone believed that EMS eventually placed a mask on § 87(2)(b) to prevent him from spitting.

§ 87(2)(g)

§ 87(2)(b) Sgt. Suarez stated that he instructed PO Enders to place § 87(2)(b)'s hood over the side of § 87(2)(b)'s face to cover his mouth to prevent § 87(2)(b) from spitting (Board Review 07). Sgt. Suarez denied seeing PO Enders holding § 87(2)(b)'s face on the ground and did not recall seeing any officers do so. Sgt. Suarez also stated that EMS eventually placed a mask on § 87(2)(b).

In her CCRB testimony, PO Trotta stated that she did not recall if § 87(2)(b) spat or if there was a concern about him spitting (Board Review 08). PO Trotta also did not recall § 87(2)(b) moving his head around and she did not recall seeing any officers placing their hands against § 87(2)(b)'s face and push his face against the floor.

NYPD Patrol Guide Procedure 221-13 defines an emotionally disturbed person and noted that an EDP should be restrained with handcuffs if they resist being taken into custody (Board Review 12).

NYPD Patrol Guide Procedure 221-01 states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody (Board Review 11). Officers will use only a reasonable amount of force to gain control or custody of the subject.

§ 87(2)(g)

It is undisputed that PO Enders placed his knee against § 87(2)(b)'s back and neck area during the incident. § 87(2)(g)

Allegation (F) Force: Police Officer Thomas Enders hit § 87(2)(b) against a stretcher.
Allegation (G) Force: Police Officer Joseph Desimone hit § 87(2)(b) against a stretcher.
Allegation (H) Force: Sergeant Guillermo Suarez hit § 87(2)(b) against a stretcher.
Allegation (I) Force: Police Officer Tina Trotta hit § 87(2)(b) against a stretcher.
§ 87(2)(b) testified that PO Enders slammed § 87(2)(b) on the stretcher (Board Review 03).

In his CCRB testimony, § 87(2)(b) stated that all four officers lifted § 87(2)(b) up and slammed him onto the stretcher (Board Review 04).

In her CCRB testimony, § 87(2)(b) stated that EMS and officers placed § 87(2)(b) on the stretcher, but she could not describe which officers did so and how they placed him on the stretcher (Board Review 01).

During his CCRB interview, § 87(2)(b) did not describe how § 87(2)(b) was placed on the stretcher (Board Review 02).

EMT § 87(2)(b) stated that § 87(2)(b) was constantly moving and fighting throughout the entire incident (Board Review 26). EMT § 87(2)(b) did not recall how § 87(2)(b) was positioned as the officers carried § 87(2)(b) to the stretcher, but she recalled that he was rear handcuffed at this point. Neither EMT § 87(2)(b) or EMT § 87(2)(b) assisted with carrying § 87(2)(b). As the officers carried him, § 87(2)(b) tried to break free by moving his hands and feet, kicking, moving his shoulders back and forth, spitting, and using foul language. The officers placed § 87(2)(b) on the stretcher with his back against the stretcher. EMT § 87(2)(b) denied seeing officers slam § 87(2)(b) on the stretcher and she did not hear noises consistent with § 87(2)(b) being loudly slammed on the stretcher. Once on the stretcher, § 87(2)(b) continued to kick, fight, and jerk his body up as EMT § 87(2)(b) was placing the seatbelt/straps around him. The officers assisted EMT § 87(2)(b) as she placed the seatbelt/straps around § 87(2)(b) by holding down § 87(2)(b)'s chest area, shoulders, and legs. Since § 87(2)(b) was kicking, his feet were also tied together, but EMT § 87(2)(b) did not recall who specifically tied his feet together.

In his CCRB testimony, PO Enders stated that EMS had difficulty placing § 87(2)(b) on a stretcher or restraint chair because he was “flailing” his body (Board Review 05). PO Enders did not recall if officers assisted EMS and he did not recall slamming § 87(2)(b) against the stretcher or seeing any officers do so.

PO Desimone stated that he did not recall if he or PO Enders placed § 87(2)(b) on the stretcher, but he stated that one officer grabbed § 87(2)(b)'s lower body and another grabbed his upper body in order to lift him onto the stretcher (Board Review 06). PO Desimone did not recall if any other officers assisted him or PO Enders. PO Desimone did not recall if § 87(2)(b) was slammed onto the stretcher.

Sgt. Suarez stated that he assisted PO Enders, PO Desimone, and the EMTs with placing § 87(2)(b) on the stretcher (Board Review 07). However, Sgt. Suarez did not recall the specific role of each officer and he did not recall what he did. Sgt. Suarez did not recall if PO Trotta also assisted. Sgt. Suarez stated that there were difficulties placing § 87(2)(b) on the stretcher because he was moving his entire body around. Sgt. Suarez did not recall where he or any of the officers or EMTs held § 87(2)(b) as they placed him on the stretcher. Sgt. Suarez stated that § 87(2)(b) was never dropped, he denied slamming § 87(2)(b) on the stretcher, and denied seeing any officers do so.

PO Trotta did not have an independent recollection of the circumstances in regards to how § 87(2)(b) was placed on the stretcher or if she assisted (Board Review 08). However, PO Trotta recalled § 87(2)(b) kicking once he was on the stretcher.

NYPD Patrol Guide Procedure 221-13 defines an emotionally disturbed person and noted that an EDP should be restrained with handcuffs if they resist being taken into custody (Board Review 12).

NYPD Patrol Guide Procedure 221-01 states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody (Board Review 11). Officers will use only a reasonable amount of force to gain control or custody of the subject.

§ 87(2)(g)

[REDACTED]

§ 87(4-b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

§ 87(4-b), § 87(2)(g)

[REDACTED]

[REDACTED]

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 20).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 21).
- PO Thomas Enders has been a member of service for five years and has been a subject in two CCRB complaints and three allegations, none of which were substantiated. ■

§ 87(2)(g)

- PO Joseph Desimone has been a member of service for four years and this is the first CCRB complaint to which he has been a subject.
- Sgt. Guillermo Suarez has been a member of service for 13 years and has been a subject in four CCRB complaints and 12 allegations, none of which were substantiated. ■

§ 87(2)(g)

- PO Tina Trotta has been a member of service for five years and has been a subject in one CCRB complaints and three allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of May 25, 2018, the New York City Office of the Comptroller has no regard of Notice of Claim being filed in regards to this complaint (Board Review 19).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review 20).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review 21).

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date